THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 17132 of 2005

Dated: 05-09-2005

Between:

Shaik Khaja Rahmanthulla, and 14 others

..... PETITIONERS

AND

The Joint Collector, Nalgonda (Civil Supplies),
Nalgonda District and two others

.....RESPONDENTS

O R D E R:

The petitioners claim to be the hawkers who have been selling Kerosene in retail under the licences granted under the A.P. Petroleum Products (Licensing and Regulation of Supplies) Order, 1980 for the past more than 10 years. While so, the 3rd respondent-Mandal Revenue Officer, Kodad issued show cause notices, dated 26-11-2004 calling upon them to show cause as to why their licences should not be cancelled. The said notices were issued on the basis of the Government Memo, dated 26-04-1994, whereunder, a ban was imposed on issuance of fresh licences to hawkers and retailers. The petitioners state that they received the said show cause notices on 30-11-2004 and even before submission of their explanations, the 3rd respondent-Mandal Revenue Officer passed orders of cancellation on 04-12-2004 concluding that since they were granted licences after 25-04-1994 they are not entitled to continue as hawkers as per the Government Memo, dated 26-04-1994. Aggrieved by the said order, the petitioners herein preferred an appeal before the 2nd respondent-Revenue Divisional Officer. The 2nd respondent, by order dated 21-07-2005, upheld the orders of cancellation and directed the 3rd respondent-Mandal Revenue Officer to initiate further action and to make alternative arrangements. Questioning the said action of respondents 2 and 3, this writ petition is filed.

I have heard the learned counsel for the petitioners and the learned Government Pleader for Civil Supplies appearing for the respondents.

The learned counsel for the petitioners submits that the impugned orders of cancellation which were passed without affording an opportunity to the petitioners to submit their explanation, are arbitrary, illegal and in violation of

principles of natural justice. The learned counsel also submits that in identical circumstances, this Court allowed W.P.Nos.22700 and 22818 of 2004.

On a perusal of the impugned order, dated 04-12-2004, passed by the 3rd respondent-Mandal Revenue Officer, it is clear that though show cause notices were issued, the orders of cancellation were passed without considering the version of the petitioners. The specific plea of the petitioners is that the show cause notices were received by them on 30-11-2004 and within three days thereafter, the impugned orders were passed even before they could submit their explanations.

Though the learned counsel for the petitioners raised various other contentions and submitted that since the petitioners were granted licences about 10 years ago, the respondents are not justified in seeking to implement the Memo dated 26-04-2004 after a long lapse of time, I am not inclined to express any opinion on the merits of the case. Instead, since admittedly there was no proper opportunity to the petitioners to submit their explanation before passing the orders of cancellation, I deem it appropriate to remit the matter to the 3rd respondent-Mandal Revenue Officer to consider the cases of the petitioners afresh after affording them an opportunity to submit their explanations to the show cause notices, dated 26-11-2004.

Accordingly, the impugned orders dated 21-07-2005 and 04-12-2004 are set aside and the writ petition is disposed of granting liberty to the petitioners to submit their explanations to the show cause notices dated 26-11-2004 within four weeks from today. If any such explanation is submitted within the time specified above, the 3rd respondent-Mandal Revenue Officer is directed to consider the same and pass appropriate orders in accordance with law within four weeks thereafter. It is needless to mention that till such time, the petitioners shall be permitted to carry on their business as hawkers.

The Writ Petition is accordingly disposed of. No costs.

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G.ROHINI,J

Dated: 05-09-2005

Note:- CC in 3 days.

(B/O)

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